

Attorney or Party Name, Address, Telephone & FAX Numbers, and California State Bar Number ALBERT, WEILAND & GOLDEN, LLP Stephen F. Biegenzahn, State Bar No. 60584 650 Town Center Drive, Suite 950 Costa Mesa, CA 92626 Telephone: (714) 966-1000 Facsimile: (714) 966-1002	FOR COURT USE ONLY RECEIVED 04 APR -9 PM 2:58 CLERK U.S. BKCY. COURT CENT. DIST. OF CALIF. BY _____ DEPUTY
UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA	
In re: MARIA ANTONIETA PIMIENTA, <div style="text-align: right;">Debtor.</div>	
CASE NO. LA 02-43306 ER	

NOTICE OF SALE OF ESTATE PROPERTY

Sale Date: April 14, 2004	Time: 11:00 a.m.
Location: Courtroom 1568, 255 E. Temple Street, Los Angeles, California	

Type of Sale: ☐ Public ☒ Private Last date to file objections: March 31, 2004

Description of Property to be Sold: 11004 Bellagio Place, Los Angeles, California 90077

Terms and Conditions of Sale: see attached Notice of Motion for Approval of Sale of Estate Assets Free and Clear of Liens Pursuant to Section 363(f) of the Bankruptcy Code; Declaration of Stephen F. Biegenzahn in Support (the "Notice")

Proposed Sale Price: \$4,750,000.00

Overbid Procedure (If Any): see attached Notice

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:

Contact Person for Potential Bidders (include name, address, telephone, fax and/or e-mail address):

Stephen F. Biegenzahn, Esq.

Albert, Weiland & Golden, LLP

650 Town Center Dr., #950, Costa Mesa, CA 92626

(714) 966-1000 tel; (714) 966-1002 fax

Date: April 9, 2004

COPY

FILED

ALBERT, WEILAND & GOLDEN, LLP
STEPHEN F. BIEGENZAHN (SBN 60584)
650 Town Center Drive, Suite 950
Costa Mesa, California 92626

Telephone: (714) 966-1000
Facsimile: (714) 966-1002

[Proposed] Counsel To
The Chapter 7 Trustee

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CLERK U.S. BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA

BY _____ DEPUTY

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re	}	Case No. LA 02-43306 ER
MARIA ANTONIETA PIMIENTA,		Chapter 7 Case
	}	
		NOTICE OF MOTION FOR
		APPROVAL OF SALE OF ESTATE
		ASSETS FREE AND CLEAR OF LIENS
	}	PURSUANT TO SECTION 363(f) OF
		THE BANKRUPTCY CODE;
		DECLARATION OF STEPHEN F.
Debtor.	}	BIEGENZAHN IN SUPPORT
		DATE: April 14, 2004
		TIME: 11:00 a.m.
		CTRM: 1568

TO CREDITORS AND THE OFFICE OF THE UNITED STATES TRUSTEE:

NOTICE IS HEREBY GIVEN that Jeffrey I. Golden, chapter 7 trustee ("Trustee") in the above-captioned bankruptcy case ("Case") will and hereby does move, pursuant to section 363 of the Bankruptcy Code for an order approving the sale of the interest of the chapter 7 estate ("Estate") in residential real property located at 11004 Bellagio Place, Los Angeles, California 90077 ("Property") on the terms and under the conditions described below ("Sale").

NOTICE IS FURTHER GIVEN that the Trustee has entered into a written agreement with Joe B. Davis ("Purchaser") for the Sale at a price of \$4,750,000, subject

1 to Court approval ("Agreement"). A copy of the Agreement is appended as an Exhibit to
2 the Declaration of Stephen F. Biegenzahn which accompanies this Notice and Motion.

3 **NOTICE IS FURTHER GIVEN** that a hearing on the Motion has been
4 scheduled to be held April 14, 2004 commencing at 11:00 a.m. in courtroom 1568
5 ("Hearing"). At the Hearing, the Trustee will ask the Court to entertain overbids, if any,
6 from bidders who have qualified in advance of the Hearing on conditions described in the
7 written form of the Motion which appears below.

8 **NOTICE IS FURTHER GIVEN** that the Motion requests approval of the Sale
9 pursuant to the provisions of section 363(f) of the Bankruptcy Code which, among other
10 things, allows the Sale to be approved and consummated free and clear of all liens and
11 claims of right; and that those liens and claims (which include the Trustee's claim to a
12 portion of the proceeds of the Sale) will attach to the proceeds of the Sale.


13 **NOTICE IS FURTHER GIVEN** that the Motion also requests approval of the
14 payment of a five percent (5%) commission to the real estate broker who assisted in
15 negotiating the Sale, as well as customary costs of sale through escrow.

16 **NOTICE IS FURTHER GIVEN** that if you wish to object to the Motion, you
17 must do so in a writing which complies with Local Rule 9013-1(a)(7) which, among other
18 things, must be filed with the Court and served on the Trustee and his counsel no later
19 than fourteen (14) calendar days before the Hearing.

20 **NOTICE IS FINALLY GIVEN** that if you fail to timely file and serve your
21 objection, the Court may grant the Motion without consideration of any objection which
22 you might otherwise interpose.

23
24 DATED: March 12, 2004

ALBERT, WEILAND & GOLDEN, LLP

25
26 BY: 
27 STEPHEN F. BIEGENZAHN
28 [Proposed] Counsel For The Trustee

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MOTION

This document is intended to discuss the Sale, and the applicable criteria for its approval. The matter is relatively simple and straightforward; so the discussion will be fairly brief.

A. Approval Of The Sale Under Section 363 Of The Bankruptcy Code.

It is axiomatic that a trustee may "sell . . . other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b). In considering a proposed sale, the court should consider whether the sale is in the best interests of the estate based on the facts of the case. In re America West Airlines, 166 B.R. 908, 912 (Bankr. D. AZ. 1994)(citing In re Lionel Corp., 722 F.2d 1063, 1071 (2d Cir. 1983)). This requires examination of the "business justification" for the proposed sale. In re 240 North Brand Partners, Ltd., 200 B.R. 653 (B.A.P. 9th Cir. 1996); In re Wilde Horse Enterprises, Inc., 136 B.R. 830 (Bankr. C.D. Cal. 1991); In re Ernst Home Center, Inc., 209 B.R. 974 (Bankr. W.D. Wash. 1997).

The rationale and benefit of the Sale are self-evident. The Estate stands to gain at least \$50,000 by reason of the "carve out" agreement with the holder of the second trust deed; the holder of the first trust deed will be paid in full through escrow.

In addition, it is readily apparent the Sale has been negotiated in good faith: The Purchaser is proceeding in good faith; and the Sale is an "arms-length" transaction." In re Wilde Horse Enterprises, Inc., 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991); In re 240 North Brand Partners, Ltd., 200 B.R. 653 (B.A.P. 9th Cir. 1996).

The proposed purchase price represents a pragmatic assessment of the fair market value of the Property. The Ninth Circuit has held that the "fair market value" of an asset is that which a party is willing to pay for such asset in the context of a commercially reasonable transaction. See, e.g., Romey v. Sun National Bank (In re Two "S" Corporation), 875 F.2d 240, 243 (9th Cir. 1989)(holding that, for purposes of valuing secured claims under § 506(a), the best evidence of fair market value of property secured by a lien is the price of such property reached in a commercially reasonable sale). The

1 ability of other potentially interested parties to provide competing offers for the assets
2 further ensures fair price in that the proposed sale does not result in a lucrative "windfall"
3 to the buyer at the expense of creditors of the estate. See In re Onouli-Kona Land Co.,
4 846 F.2d 1170 (9th Cir. 1988).

5 Here, the price substantially exceeds the valuation offered in the context of the
6 pending motion for stay relief; and, even without overbids, represents more than ninety
7 four percent (94%) of the valuation submitted by American Founders.

8 B. Application Of Subsection 363(f) Of The Bankruptcy Code.

9 The Trustee submits that the Court can and should approve the Sale free and
10 clear of any liens, claims, and interests, to the extent they exist, pursuant to 11 U.S.C.
11 § 363(f), with any liens or claims to attach to the proceeds of the Sale with all parties
12 reserving their rights with respect to such liens and encumbrances, including the
13 Trustee's right to dispute, subordinate, avoid, or object to the amount, validity, scope and
14 priority of such liens.

15 Section 363(f) describes the circumstances under which the Trustee may sell the
16 Property free and clear of any interest of third parties in such property as follows:

17 The trustee may sell property under subsection (b) or (c) of
18 this section free and clear of any interest in such property of
an entity other than the estate, only if -

- 19 1. applicable nonbankruptcy law permits sale of
such property free and clear of such interest;
- 20 2. such entity consents;
- 21 3. such interest is a lien and the price at which
22 such property is to be sold is greater than the
aggregate value of all liens on such property;
- 23 4. such interest is in bona fide dispute; or
- 24 5. such entity could be compelled, in a legal or
25 equitable proceeding, to accept a money
satisfaction of such interest.

26 Because subsections (1) through (5) of § 363(f) are written in the disjunctive,
27 authority to sell the Property free all interests should be granted if any of the conditions
28

1 are met with respect to each interest holder. As to First Bank & Trust, holder of the first
2 trust deed against the Property ("First Bank"), the first and fifth criteria are satisfied. With
3 respect to American Founders Financial Corporation, the holder of the second
4 ("Founders"), it is anticipated that, at least after the bidding process has been completed,
5 it will consent to the Sale. The Trustee's "carve out" creates an interest in the Property;
6 but obviously, he consents to the Sale. No other interests are relevant.

7 C. Treatment Of Possible Overbids.

8 As all interested parties are aware, bankruptcy sales are open to potential
9 overbids. In a perfect universe, such bids would be solicited over a longer period of time
10 than the exigencies of the Case allowed. There is a pending request for relief from stay
11 which, if granted, remove the Property from the Estate. Therefore, rather than making a
12 separate request to the Court to fix overbid and qualification requirements, the Trustee
13 suggests the following; and requests that, to the extent it becomes germane, the
14 procedure be implemented at the Hearing:

- 15 > Overbids should be in minimum increments of \$10,000.00
- 16 > Any bidder who wishes to have an overbid considered should provide to the
17 Trustee, no less than three (3) business days before the Hearing, a cashier's
18 check payable to the Trustee in the amount of \$10,000.00 (subject to forfeiture in
19 the event a bid is confirmed and the purchaser fails to close); and a personal (or, if
20 appropriate, corporate) financial statement¹ or other proof of the bidder's ability to
21 deposit into escrow a good faith deposit in an amount not less than ten percent
22 (10%) of the purchase price for the Property

23 D. Payment Of Broker's Commission.

24 Again, due to the exigencies of the Case, the Trustee could not afford to wait for
25 the approval of his application to employ Coldwell Banker and Mr. William Friedman
26

27 ¹ Founders, to the extent it might choose to credit bid for the Property would be
28 deemed qualified, provided it makes arrangements for payment of the "carve out" to the
Estate.

1 ("Broker") before marketing the Property. The Motion seeks Court authority to pay a five
2 percent (5%) commission (or such other amount, depending on the purchase price for
3 the Property) in conformity with the Agreement and consistent with the application to
4 approve the Broker which was granted by order entered March 5, 2004. In support of this
5 request, the Trustee respectfully submits that, without Broker's efforts, the Property would
6 not have been sold.

7 For the reasons delineated above, the Trustee submits that the Sale should be
8 approved provided any qualified interested bidders are given a chance to overbid.

9
10 DATED: March 12, 2004

ALBERT, WEILAND & GOLDEN, LLP

11
12 BY:


STEPHEN F. BIEGENZAHN
[Proposed] Counsel For The Trustee

1 **DECLARATION OF STEPHEN F. BIEGENZAHN**

2 I, Stephen F. Biegenzahn, declare and state:

3 1. I am an attorney duly licensed to practice law in the State of California
4 and in all federal Courts in that State. I am of counsel to Albert, Weiland & Golden, LLP,
5 counsel ("AWG") for Jeffrey I. Golden, chapter 7 trustee (the "Trustee") in the above-
6 captioned bankruptcy case ("Case"). I am the attorney at AWG principally responsible for
7 representing the Trustee in the Case.

8 2. I make this declaration in support of the preceding Notice Of Motion And
9 Motion [etc.] ("Motion"). For the sake of brevity and clarity, definitions provided above
10 are adopted here. I can and do, as a matter of personal knowledge, affirm the factual
11 statements made in the Motion.

12 3. The agreement to retain, subject to Court approval, Coldwell Banker
13 and Mr. William Friedman to act as the Trustee's broker ("Broker") with respect to the
14 Property ("327 Application") was filed with my prior Declaration (filed in the context of the
15 pending motion for relief from stay) and also appended to an application to employ the
16 Broker served February 11, 2004. On March 11, 2004, an order approving the 327
17 Application (which had been entered by the Court) was received by the Firm, and
18 reviewed by me.

19 4. On February 23, 2004, Mr. Friedman forwarded to the Trustee an offer
20 to purchase the Property for \$4,500,000 ("Offer"). The Offer came from Dr. and Mrs.
21 Broukhim, third party purchasers with no connection to the Trustee; and no apparent
22 connection with the debtor or her spouse. A counteroffer at \$4,750,000 was not
23 accepted; and marketing efforts continued.

24 5. On February 26, 2004, I was advised that Founders had obtained a
25 valuation of the Property at \$5,000,000; an appraisal at \$4,900,000 was submitted to the
26 Court in the context of First Bank's motion for relief from stay.

6. The Purchaser has no affiliation with the Trustee; and I am informed and believe he is a disinterested third party with no connection to the Estate, or any party in interest in the Case.

7. Attached hereto as Exhibit 1 is an accurate copy of the Agreement.

Executed March 12, 2004 at Costa Mesa, California.

I declare under penalty of perjury the foregoing is true and correct; and, if called as a witness, I could and would testify competently thereto.

Stephen F. Biegenzahn
STEPHEN F. BIEGENZAHN



CALIFORNIA
ASSOCIATION
OF REALTORS®

CALIFORNIA RESIDENTIAL PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS

For Use With Single Family Residential Property — Attached or Detached
(C.A.R. Form RPA-CA, Revised 10/02)

- Date 3-3-04 at _____, California.
1. OFFER:
- A. THIS IS AN OFFER FROM Joe Davis and or Company ("Buyer").
- B. THE REAL PROPERTY TO BE ACQUIRED is described as _____ Assessor's Parcel No. 4369-015-033, situated in 11004 Bellagio Place County of Alameda California, ("Property").
- C. THE PURCHASE PRICE offered is Four Million Five Hundred Thousand Dollars Dollars \$ 4,500,000 (date) (or 1 Days After Acceptance).
2. FINANCE TERMS: Obtaining the loans below is a contingency of this Agreement unless: (i) either 2K or 2L is checked below; or (ii) otherwise agreed in writing. Buyer shall act diligently and in good faith to obtain the designated loans. Obtaining deposit, down payment and closing costs is not a contingency. Buyer represents that funds will be good when deposited with Escrow Holder.
- A. INITIAL DEPOSIT: Buyer has given a deposit in the amount of \$133,000 by personal check to the agent submitting the offer (or to ☐ _____), made payable to Escrow which shall be held uncashed until Acceptance and then deposited within 3 business days after Acceptance (or ☐ Escrow Holder, (or ☐ into Broker's trust account).
- B. INCREASED DEPOSIT: Buyer shall deposit with Escrow Holder an increased deposit in the amount of \$ _____ within _____ Days After Acceptance, or ☐ \$ _____.
- C. FIRST LOAN IN THE AMOUNT OF _____
- (1) NEW First Deed of Trust in favor of lender, encumbering the Property, securing a note payable at maximum interest of _____ % fixed rate, or _____ % initial adjustable rate with a maximum interest rate of _____ %, balance due in _____ years, amortized over _____ years, Buyer shall pay loan fees/points not to exceed _____ (These terms apply whether the designated loan is conventional, FHA or VA.)
- (2) ☐ FHA ☐ VA: (The following terms only apply to the FHA or VA loan that is checked.) Seller shall pay _____ % discount points. Seller shall pay other fees not allowed to be paid by Buyer ☐ not to exceed \$ _____. Seller shall pay the cost of lender required Repairs (including those for wood destroying pest) not otherwise provided for in this Agreement, ☐ not to exceed \$ _____. (Actual loan amount may increase if mortgage insurance premiums, funding fees or closing costs are financed.)
- D. ADDITIONAL FINANCING TERMS: ☐ Seller financing, (C.A.R. Form SFA); ☐ secondary financing, ... \$ _____ (C.A.R. Form PAA, paragraph 4A); ☐ assumed financing (C.A.R. Form PAA, paragraph 4B)
- E. BALANCE OF PURCHASE PRICE (not including costs of obtaining loans and other closing costs) in the amount of \$4,367,000 to be deposited with Escrow Holder within sufficient time to close escrow. \$4,500,000
- F. PURCHASE PRICE (TOTAL): _____
- G. LOAN APPLICATIONS: Within 7 (or ☐ _____) Days After Acceptance, Buyer shall provide Seller a letter from lender or mortgage loan broker stating that, based on a review of Buyer's written application and credit report, Buyer is prequalified or preapproved for the NEW loan specified in 2C above.
- H. VERIFICATION OF DOWN PAYMENT AND CLOSING COSTS: Buyer (or Buyer's lender or loan broker pursuant to 2G) shall, within 7 (or ONE) Days After Acceptance, provide Seller written verification of Buyer's down payment and closing costs.
- I. LOAN CONTINGENCY REMOVAL: (i) Within 17 (or ☐ _____) Days After Acceptance, Buyer shall, as specified in paragraph 14, remove the loan contingency or cancel this Agreement; OR (ii) (If checked) ☐ the loan contingency shall remain in effect until the designated loans are funded.
- J. APPRAISAL CONTINGENCY AND REMOVAL: This Agreement is (OR, if checked, ☐ is NOT) contingent upon the Property appraising at no less than the specified purchase price. If there is a loan contingency, at the time the loan contingency is removed (or, if checked, ☐ within 17 (or _____) Days After Acceptance), Buyer shall, as specified in paragraph 14B(3), remove the appraisal contingency or cancel this Agreement. If there is no loan contingency, Buyer shall, as specified in paragraph 14B(3), remove the appraisal contingency within 17 (or _____) Days After Acceptance.
- K. ☒ NO LOAN CONTINGENCY (If checked): Obtaining any loan in paragraphs 2C, 2D or elsewhere in this Agreement is NOT a contingency of this Agreement. If Buyer does not obtain the loan and as a result Buyer does not purchase the Property, Seller may be entitled to Buyer's deposit or other legal remedies.
- L. ☒ ALL CASH OFFER (If checked): No loan is needed to purchase the Property. Buyer shall, within 7 (or ☐ _____) Days After Acceptance, provide Seller written verification of sufficient funds to close this transaction.
3. CLOSING AND OCCUPANCY:
- A. Buyer intends (or ☐ does not intend) to occupy the Property as Buyer's primary residence.
- B. Seller-occupied or vacant property: Occupancy shall be delivered to Buyer at 12 AM on the date of Close Of Escrow; ☐ on _____; or ☐ no later than _____ Days After Close Of Escrow. (C.A.R. Form PAA, paragraph 2.) If transfer of title and occupancy do not occur at the same time, Buyer and Seller are advised to: (i) enter into a written occupancy agreement; and (ii) consult with their insurance and legal advisors.

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Buyer's Initials JD
Seller's Initials _____

Reviewed by 9 Date _____

EXHIBIT

PAGE



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Date: 21-10-2024

OR (ii) (if checked) ☒ Tenant to remain in possession. The attached addendum is incorporated into this Agreement (C.A.R. Form PAA, paragraph 3.);

D. At Close Of Escrow, Seller assigns to Buyer any assignable warranty rights for items included in the sale and shall provide any available Copies of such warranties. Brokers cannot and will not determine the assignability of any warranties.

E. At Close Of Escrow, unless otherwise agreed in writing, Seller shall provide keys and/or means to operate all locks, mailboxes, security systems, alarms and garage door openers. If Property is a condominium or located in a common interest subdivision, Buyer may be required to pay a deposit to the Homeowners' Association ("HOA") to obtain keys to accessible HOA facilities. If Property is not located in a common interest subdivision, this paragraph only determines who is to pay for the report.

4. **ALLOCATION OF COSTS** (If checked): Unless otherwise specified here, this paragraph only determines who is to pay for the report, inspection, test or service mentioned. If not specified here or elsewhere in this Agreement, the determination of who is to pay for any work recommended or identified by any such report, inspection, test or service shall be by the method specified in paragraph 14.

A. WOOD DESTROYING PEST INSPECTION:
 (1) ~~Buyer~~ Seller shall pay for an inspection and report for wood destroying pests and organisms ("Report") which shall be prepared by _____ a registered structural pest control company. The Report shall cover the accessible areas of the main building and attached structures and, if checked: ☐ detached garages and carports, ☐ detached decks, ☐ the following other structures or areas _____ The Report shall

not include roof coverings. If Property is a condominium or located in a common interest subdivision, the Report shall include only the separate interest and any exclusive-use areas being transferred and shall not include common areas, unless otherwise agreed. Water tests of shower pans on upper level units may not be performed without consent of the owners of property below the shower.

OR (2) ☐ (If checked) The attached addendum (C.A.R. Form WPA) regarding wood destroying pest inspection and allocation of cost is incorporated into this Agreement.

B. OTHER INSPECTIONS AND REPORTS:

OTHER INSPECTIONS AND REPORTS:

(1) ☒ Buyer ☐ Seller shall pay to have septic or private sewage disposal systems inspected _____

(2) ☒ Buyer ☐ Seller shall pay to have domestic wells tested for water potability and productivity _____

(3) ☒ Buyer ☐ Seller shall pay for a natural hazard zone disclosure report prepared by _____

(4) ☐ Buyer ☐ Seller shall pay for the following inspection or report _____

(5) ☐ Buyer ☐ Seller shall pay for the following inspection or report _____

C. (5) Buyer and Seller shall pay for the following retrofits:
GOVERNMENT REQUIREMENTS AND RETROFIT:

(1) ~~Buyer~~ Seller shall pay for the following:

GOVERNMENT REQUIREMENTS AND RETROFIT:

(1) ~~Buyer~~ Seller shall pay for smoke detector installation and/or water heater bracing, if required by Law. Prior to Close Of Escrow, Seller shall provide Buyer a written statement of compliance in accordance with state and local Law, unless exempt.

Seller shall comply with any other minimum mandatory government retrofit standards,

(2) ☒ Buyer ☐ Seller shall pay the cost of compliance with any other minimum mandatory government retrofit standards, inspections and reports if required as a condition of closing escrow under any Law. _____

D. ESCROW AND TITLE:

ESCROW AND TITLE: 2 BUYER 2 SELLER
(1) ☒ Buyer & Seller shall pay escrow fee
Escrow Holder shall be SELLER'S CHOICE
with insurance policy specified in paragraph 12

(2) Buyer ☒ Seller shall pay for owner's title insurance policy specified in paragraph 12 _____
Owner's title policy to be issued by: Equity title
(Buyer shall pay for any title insurance policy insuring Buyer's lender, unless otherwise agreed in writing.)

OTHER COSTS:

OTHER COSTS:

(1) ☐ Buyer ☒ Seller shall pay County transfer tax or transfer fee _____

(2) ☐ Buyer ☒ Seller shall pay City transfer tax or transfer fee _____

(3) ☐ Buyer ☐ Seller shall pay HOA transfer fee _____

(4) ☐ Buyer ☐ Seller shall pay HOA document preparation fees _____, of a one-year home warranty plan.

(5) ☐ Buyer ☐ Seller shall pay the cost, not to exceed \$ _____

issued by _____

with the following optional coverage: _____

issued by _____
with the following optional coverage: _____

(6) ☐ Buyer ☐ Seller shall pay for _____

(7) ☐ Buyer ☐ Seller shall pay for _____

INTEGRATING LEAD-BASED PAINT HAZARD DISCLOSURES) AND CANCELLATION RIGHTS:

5. **STATUTORY DISCLOSURES (INCLUDING LEAD-BASED PAINT HAZARD DISCLOSURES) AND CANCELLATION RIGHTS:**

STATUTORY DISCLOSURES (INCLUDING LEAD-BASED PAINT HAZARD DISCLOSURES) AND CANCELLATION:

A. (1) Seller shall, within the time specified in paragraph 14, deliver to Buyer, if required by Law: (i) Federal Lead-Based Paint Disclosures and pamphlet ("Lead Disclosures"); and (ii) disclosures or notices required by sections 1102 et. seq. and 1103 et. seq. of the California Civil Code ("Statutory Disclosures"). Statutory Disclosures include, but are not limited to, a Real Estate Transfer Disclosure Statement ("TDS"), Natural Hazard Disclosure Statement ("NHD"), notice or actual knowledge of release of illegal controlled substance, notice of special tax and/or assessments (or, if allowed, substantially equivalent notice regarding the Mello-Roos Community Facilities Act and Improvement Bond Act of 1915) and, if Seller has actual knowledge, an industrial use and military ordinance location disclosure (C.A.R. Form 550).

notice regarding the Mello-Roos Community Facilities Act, and, to the best of Buyer's knowledge, an industrial use and military ordnance location disclosure (C.A.R. Form 550).

(2) Buyer shall, within the time specified in paragraph 14, return Signed Copies of the Statutory and Lead Disclosures to Seller.

(3) In the event Seller, prior to Close Of Escrow, becomes aware of adverse conditions materially affecting the Property, or any material inaccuracy in disclosures, information or representations previously provided to Buyer of which Buyer is otherwise unaware, Seller shall promptly provide a subsequent or amended disclosure or notice, in writing, covering those items. However, a subsequent or amended disclosure shall not be required for conditions and material inaccuracies disclosed in reports ordered and paid for by Buyer.

Buyer's Initials _____ (_____)
Seller's Initials _____ (_____)

Buyer's Initials)
Seller's Initials)



Property Address: 11004 11th St N, Phoenix, AZ 85018

- (4) If any disclosure or notice specified in 5A(1), or subsequent or amended disclosure or notice is delivered to Buyer after the offer is Signed, Buyer shall have the right to cancel this Agreement within 3 Days After delivery in person, or 5 Days After delivery by deposit in the mail, by giving written notice of cancellation to Seller or Seller's agent. (Lead Disclosures sent by mail must be sent certified mail or better.)
- (5) Note to Buyer and Seller: Waiver of Statutory and Lead Disclosures is prohibited by Law.
- B. **NATURAL AND ENVIRONMENTAL HAZARDS:** Within the time specified in paragraph 14, Seller shall, if required by Law: (i) deliver to Buyer earthquake guides (and questionnaire) and environmental hazards booklet; (ii) even if exempt from the obligation to provide a NMD, disclose if the Property is located in a Special Flood Hazard Area; Potential Flooding (Inundation) Area; Very High Fire Hazard Zone; State Fire Responsibility Area; Earthquake Fault Zone; Seismic Hazard Zone; and (iii) disclose any other zone as required by Law and provide any other information required for those zones.
- C. **DATA BASE DISCLOSURE: NOTICE:** The California Department of Justice, Sheriff's departments, police departments serving jurisdictions of 200,000 or more and many other local law enforcement authorities maintain for public access a data base of the locations of persons required to register pursuant to paragraph (1) of subdivision (a) of Section 290.4 of the Penal Code. The data base is updated on a quarterly basis and a source of information about the presence of these individuals in any neighborhood. The Department of Justice also maintains a Sex Offender Identification Line through which inquiries about individuals may be made. This is a "900" telephone service. Callers must have specific information about individuals they are checking. Information regarding neighborhoods is not available through the "900" telephone service.
6. **CONDOMINIUM/PLANNED UNIT DEVELOPMENT DISCLOSURES:**
- A. **SELLER HAS:** 7 (or ☐) Days After Acceptance to disclose to Buyer whether the Property is a condominium, or is located in a planned unit development or other common interest subdivision.
- B. If the Property is a condominium or is located in a planned unit development or other common interest subdivision, Seller has 3 (or ☐) Days After Acceptance to request from the HOA (C.A.R. Form HOA): (i) Copies of any documents required by Law; (ii) disclosure of any pending or anticipated claim or litigation by or against the HOA; (iii) a statement containing the location and number of designated parking and storage spaces; (iv) Copies of the most recent 12 months of HOA minutes for regular and special meetings; and (v) the names and contact information of all HOAs governing the Property (collectively, "CI Disclosures"). Seller shall itemize and deliver to Buyer all CI Disclosures received from the HOA and any CI Disclosures in Seller's possession. Buyer's approval of CI Disclosures is a contingency of this Agreement as specified in paragraph 14.
7. **CONDITIONS AFFECTING PROPERTY:**
- A. Unless otherwise agreed: (i) the Property is sold (a) in its PRESENT physical condition as of the date of Acceptance and (b) subject to Buyer's investigation rights; (ii) the Property, including pool, spa, landscaping and grounds, is to be maintained in substantially the same condition as on the date of Acceptance; and (iii) all debris and personal property not included in the sale shall be removed by Close Of Escrow.
- B. **SELLER SHALL, within the time specified in paragraph 14, DISCLOSE KNOWN MATERIAL FACTS AND DEFECTS AFFECTING THE PROPERTY, including known insurance claims within the past five years, AND MAKE OTHER DISCLOSURES REQUIRED BY LAW.**
- C. **NOTE TO BUYER:** You are strongly advised to conduct investigations of the entire Property in order to determine its present condition since Seller may not be aware of all defects affecting the Property or other factors that you consider important. Property improvements may not be built according to code, in compliance with current Law, or have had permits issued.
- D. **NOTE TO SELLER:** Buyer has the right to inspect the Property and, as specified in paragraph 14, based upon information discovered in those inspections: (i) cancel this Agreement; or (ii) request that you make Repairs or take other action.
8. **ITEMS INCLUDED AND EXCLUDED:**
- A. **NOTE TO BUYER AND SELLER:** Items listed as included or excluded in the MLS, flyers or marketing materials are not included in the purchase price or excluded from the sale unless specified in 8B or C.
- B. **ITEMS INCLUDED IN SALE:**
- (1) All EXISTING fixtures and fittings that are attached to the Property;
- (2) Existing electrical, mechanical, lighting, plumbing and heating fixtures, ceiling fans, fireplace inserts, gas logs and grates, solar systems, built-in appliances, window and door screens, awnings, shutters, window coverings, attached floor coverings, television antennas, satellite dishes, private integrated telephone systems, air coolers/conditioners, pool/spa equipment, garage door openers/remote controls, mailbox, in-ground landscaping, trees/shrubs, water softeners, water purifiers, security systems/alarms;
- (3) The following items:
- (4) Seller represents that all items included in the purchase price, unless otherwise specified, are owned by Seller.
- (5) All items included shall be transferred free of liens and without Seller warranty.
- C. **ITEMS EXCLUDED FROM SALE:**
9. **BUYER'S INVESTIGATION OF PROPERTY AND MATTERS AFFECTING PROPERTY:**
- A. Buyer's acceptance of the condition of, and any other matter affecting the Property, is a contingency of this Agreement as specified in this paragraph and paragraph 14. Within the time specified in paragraph 14, Buyer shall have the right, at Buyer's expense unless otherwise agreed, to conduct inspections, investigations, tests, surveys and other studies ("Buyer Investigations"), including, but not limited to, the right to: (i) inspect for lead-based paint and other lead-based paint hazards; (ii) inspect for wood destroying pests and organisms; (iii) review the registered sex offender database; (iv) confirm the insurability of Buyer and the Property; and (v) satisfy Buyer as to any matter specified in the attached Buyer's Inspection Advisory (C.A.R. Form BIA). Without Seller's prior written consent, Buyer shall neither make nor cause to be made: (i) invasive or destructive Buyer Investigations; or (ii) inspections by any governmental building or zoning inspector or government employee, unless required by Law.
- B. Buyer shall complete Buyer Investigations and, as specified in paragraph 14, remove the contingency or cancel this Agreement. Buyer shall give Seller, at no cost, complete Copies of all Buyer Investigation reports obtained by Buyer. Seller shall make the Property available for all Buyer Investigations. Seller shall have water, gas, electricity and all operable pilot lights on for Buyer's Investigations and through the date possession is made available to Buyer.

Buyer's Initials

Seller's Initials



Property Address: 11004 VELLAS PLACEDate: 3-31-95

- D. EFFECT OF BUYER'S REMOVAL OF CONTINGENCIES:** If Buyer removes, in writing, any contingency or cancellation rights, unless otherwise specified in a separate written agreement between Buyer and Seller, Buyer shall conclusively be deemed to have: (i) completed all Buyer Investigations, and review of reports and other applicable information and disclosures pertaining to that contingency or cancellation right; (ii) elected to proceed with the transaction; and (iii) assumed all liability, responsibility and expense for Repairs or corrections pertaining to that contingency or cancellation right, or for inability to obtain financing.
- E. EFFECT OF CANCELLATION ON DEPOSITS:** If Buyer or Seller gives written notice of cancellation pursuant to rights duly exercised under the terms of this Agreement, Buyer and Seller agree to sign mutual instructions to cancel the sale and escrow and release deposits, less fees and costs, to the party entitled to the funds. Fees and costs may be payable to service providers and vendors for services and products provided during escrow. Release of funds will require mutual Signed release instructions from Buyer and Seller, judicial decision or arbitration award. A party may be subject to a civil penalty of up to \$1,000 for refusal to sign such instructions if no good faith dispute exists as to who is entitled to the deposited funds (Civil Code §1057.3).
- 15. FINAL VERIFICATION OF CONDITION:** Buyer shall have the right to make a final inspection of the Property within 5 (or) Days Prior to Close Of Escrow, NOT AS A CONTINGENCY OF THE SALE, but solely to confirm: (i) the Property is maintained pursuant to paragraph 7A; (ii) Repairs have been completed as agreed; and (iii) Seller has complied with Seller's other obligations under this Agreement.
- 16. LIQUIDATED DAMAGES:** If Buyer fails to complete this purchase because of Buyer's default, Seller shall retain, as liquidated damages, the deposit actually paid. If the Property is a dwelling with no more than four units, one of which Buyer intends to occupy, then the amount retained shall be no more than 3% of the purchase price. Any excess shall be returned to Buyer. Release of funds will require mutual, Signed release instructions from both Buyer and Seller, judicial decision or arbitration award.
- BUYER AND SELLER SHALL SIGN A SEPARATE LIQUIDATED DAMAGES PROVISION FOR ANY INCREASED DEPOSIT. (C.A.R. FORM RID)**

Buyer's Initials <u>JP</u>	Seller's Initials <u>JP</u>
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17. DISPUTE RESOLUTION:

- A. MEDIATION:** Buyer and Seller agree to mediate any dispute or claim arising between them out of this Agreement, or any resulting transaction, before resorting to arbitration or court action. Paragraphs 17B(2) and (3) below apply whether or not the Arbitration provision is initiated. Mediation fees, if any, shall be divided equally among the parties involved. If, for any dispute or claim to which this paragraph applies, any party commences an action without first attempting to resolve the matter through mediation, or refuses to mediate after a request has been made, then that party shall not be entitled to recover attorney fees, even if they would otherwise be available to that party in any such action. **THIS MEDIATION PROVISION APPLIES WHETHER OR NOT THE ARBITRATION PROVISION IS INITIALED.**
- B. ARBITRATION OF DISPUTES:** (1) Buyer and Seller agree that any dispute or claim in Law or equity arising between them out of this Agreement or any resulting transaction, which is not settled through mediation, shall be decided by neutral, binding arbitration, including and subject to paragraphs 17B(2) and (3) below. The arbitrator shall be a retired judge or justice, or an attorney with at least 5 years of residential real estate Law experience, unless the parties mutually agree to a different arbitrator, who shall render an award in accordance with substantive California Law. The parties shall have the right to discovery in accordance with California Code of Civil Procedure §1283.05. In all other respects, the arbitration shall be conducted in accordance with Title 9 of Part III of the California Code of Civil Procedure. Judgment upon the award of the arbitrator(s) may be entered into any court having jurisdiction. Interpretation of this agreement to arbitrate shall be governed by the Federal Arbitration Act.
- (2) EXCLUSIONS FROM MEDIATION AND ARBITRATION:** The following matters are excluded from mediation and arbitration: (i) a judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage or installment land sale contract as defined in California Civil Code §2985; (ii) an unlawful detainer action; (iii) the filing or enforcement of a mechanic's lien; and (iv) any matter that is within the jurisdiction of a probate, small claims or bankruptcy court. The filing of a court action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a waiver of the mediation and arbitration provisions.
- (3) BROKERS:** Buyer and Seller agree to mediate and arbitrate disputes or claims involving either or both Brokers, consistent with 17 A and B, provided either or both Brokers shall have agreed to such mediation or arbitration prior to, or within a reasonable time after, the dispute or claim is presented to Brokers. Any election by either or both Brokers to participate in mediation or arbitration shall not result in Brokers being deemed parties to the Agreement.

"NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL. UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY."

"WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION TO NEUTRAL ARBITRATION."

Buyer's Initials <u>JP</u>	Seller's Initials <u>JP</u>
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Buyer's Initials ()	Seller's Initials ()
Seller's Initials ()	Buyer's Initials ()



Property Address: 11004 DELLAGIO PLACEDate: 2.5.04

- 18. PRORATIONS OF PROPERTY TAXES AND OTHER ITEMS:** Unless otherwise agreed in writing, the following items shall be PAID CURRENT and prorated between Buyer and Seller as of Close Of Escrow: real property taxes and assessments, interest, rents, HOA regular, special, and emergency dues and assessments imposed prior to Close Of Escrow, premiums on insurance assumed by Buyer, payments on bonds and assessments assumed by Buyer, and payments on Mello-Roos and other Special Assessment District bonds and assessments that are now a lien. The following items shall be assumed by Buyer WITHOUT CREDIT toward the purchase price: prorated payments on Mello-Roos and other Special Assessment District bonds and assessments and HOA special assessments that are now a lien but not yet due. Property will be reassessed upon change of ownership. Any supplemental tax bills shall be paid as follows: (i) for periods after Close Of Escrow, by Buyer; and (ii) for periods prior to Close Of Escrow, by Seller. TAX BILLS ISSUED AFTER CLOSE OF ESCROW SHALL BE HANDLED DIRECTLY BETWEEN BUYER AND SELLER. Prorations shall be made based on a 30-day month.
- 19. WITHHOLDING TAXES:** Seller and Buyer agree to execute any instrument, affidavit, statement or instruction reasonably necessary to comply with federal (FIRPTA) and California withholding Law, if required (C.A.R. Forms AS and AB).
- 20. MULTIPLE LISTING SERVICE ("MLS"):** Brokers are authorized to report to the MLS a pending sale and, upon Close Of Escrow, the terms of this transaction to be published and disseminated to persons and entities authorized to use the information on terms approved by the MLS.
- 21. EQUAL HOUSING OPPORTUNITY:** The Property is sold in compliance with federal, state and local anti-discrimination Laws.
- 22. ATTORNEY FEES:** In any action, proceeding, or arbitration between Buyer and Seller arising out of this Agreement, the prevailing Buyer or Seller shall be entitled to reasonable attorney fees and costs from the non-prevailing Buyer or Seller, except as provided in paragraph 17A.
- 23. SELECTION OF SERVICE PROVIDERS:** If Brokers refer Buyer or Seller to persons, vendors, or service or product providers ("Providers"), Brokers do not guarantee the performance of any Providers. Buyer and Seller may select ANY Providers of their own choosing.
- 24. TIME OF ESSENCE; ENTIRE CONTRACT; CHANGES:** Time is of the essence. All understandings between the parties are incorporated in this Agreement. Its terms are intended by the parties as a final, complete and exclusive expression of their Agreement with respect to its subject matter, and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. If any provision of this Agreement is held to be ineffective or invalid, the remaining provisions will nevertheless be given full force and effect. Neither this Agreement nor any provision in it may be extended, amended, modified, altered or changed, except in writing Signed by Buyer and Seller.
- 25. OTHER TERMS AND CONDITIONS,** including attached supplements:
- A. ☒ Buyer's Inspection Advisory (C.A.R. Form BIA)
 - B. ☒ Purchase Agreement Addendum (C.A.R. Form PAA paragraph numbers: _____)
 - C. Property to be delivered with Clean title NO Tax liens, etc.
- * ② NO CONTINGENCY OFFER.**
- 26. DEFINITIONS:** As used in this Agreement:
- A. "Acceptance" means the time the offer or final counter offer is accepted in writing by a party and is delivered to and personally received by the other party or that party's authorized agent in accordance with the terms of this offer or a final counter offer.
 - B. "Agreement" means the terms and conditions of this accepted California Residential Purchase Agreement and any accepted counter offers and addenda.
 - C. "C.A.R. Form" means the specific form referenced or another comparable form agreed to by the parties.
 - D. "Close Of Escrow" means the date the grant deed, or other evidence of transfer of title, is recorded. If the scheduled close of escrow falls on a Saturday, Sunday or legal holiday, then close of escrow shall be the next business day after the scheduled close of escrow date.
 - E. "Copy" means copy by any means including photocopy, NCR, facsimile and electronic.
 - F. "Days" means calendar days, unless otherwise required by Law.
 - G. "Days After" means the specified number of calendar days after the occurrence of the event specified, not counting the calendar date on which the specified event occurs, and ending at 11:59PM on the final day.
 - H. "Days Prior" means the specified number of calendar days before the occurrence of the event specified, not counting the calendar date on which the specified event is scheduled to occur.
 - I. "Electronic Copy" or "Electronic Signature" means, as applicable, an electronic copy or signature complying with California Law. Buyer and Seller agree that electronic means will not be used by either party to modify or alter the content or integrity of this Agreement without the knowledge and consent of the other.
 - J. "Law" means any law, code, statute, ordinance, regulation, rule or order, which is adopted by a controlling city, county, state or federal legislative, judicial or executive body or agency.
 - K. "Notice to Buyer to Perform" means a document (C.A.R. Form NBP), which shall be in writing and Signed by Seller and shall give Buyer at least 24 hours (or as otherwise specified in paragraph 14C(4)) to remove a contingency or perform as applicable.
 - L. "Repairs" means any repairs (including pest control), alterations, replacements, modifications or retrofitting of the Property provided for under this Agreement.
 - M. "Signed" means either a handwritten or electronic signature on an original document, Copy or any counterpart.
 - N. Singular and Plural terms each include the other, when appropriate.

Buyer's Initials (JS) (_____)
 Seller's Initials (JS) (_____)



Property Address: 11007 1/2 4th St. 11thDate: 5-5-04**27. AGENCY:**

A. DISCLOSURE: Buyer and Seller each acknowledge prior receipt of C.A.R. Form AD "Disclosure Regarding Real Estate Agency Relationships."

B. POTENTIALLY COMPETING BUYERS AND SELLERS: Buyer and Seller each acknowledge receipt of a disclosure of the possibility of multiple representation by the Broker representing that principal. This disclosure may be part of a listing agreement, buyer-broker agreement or separate document (C.A.R. Form DA). Buyer understands that Broker representing Buyer may also represent other potential buyers, who may consider, make offers on or ultimately acquire the Property. Seller understands that Broker representing Seller may also represent other sellers with competing properties of interest to this Buyer.

C. CONFIRMATION: The following agency relationships are hereby confirmed for this transaction:

Listing Agent Coldwell Banker (Print Firm Name) is the agent of (check one): ☒ the Seller exclusively; or ☐ both the Buyer and Seller.

Selling Agent Eugene Leon, DBA Bel-Air Realty Properties (Print Firm Name) (If not same as Listing Agent) is the agent of (check one): ☒ the Buyer exclusively; or ☐ the Seller exclusively; or ☐ both the Buyer and Seller. Real Estate Brokers are not parties to the Agreement between Buyer and Seller.

28. JOINT ESCROW INSTRUCTIONS TO ESCROW HOLDER:

A. The following paragraphs, or applicable portions thereof, of this Agreement constitute the joint escrow instructions of Buyer and Seller to Escrow Holder, which Escrow Holder is to use along with any related counter offers and addenda, and any additional mutual instructions to close the escrow: 1, 2, 4, 12, 13B, 14E, 18, 19, 24, 25B and C, 26, 28, 29, 32A, 33 and paragraph D of the section titled Real Estate Brokers on page 8. If a Copy of the separate compensation agreement(s) provided for in paragraph 29 or 32A, or paragraph D of the section titled Real Estate Brokers on page 8 is deposited with Escrow Holder by Broker, Escrow Holder shall accept such agreement(s) and pay out from Buyer's or Seller's funds, or both, as applicable, the Broker's compensation provided for in such agreement(s). The terms and conditions of this Agreement not set forth in the specified paragraphs are additional matters for the information of Escrow Holder, but about which Escrow Holder need not be concerned. Buyer and Seller will receive Escrow Holder's general provisions directly from Escrow Holder and will execute such provisions upon Escrow Holder's request. To the extent the general provisions are inconsistent or conflict with this Agreement, the general provisions will control as to the duties and obligations of Escrow Holder only. Buyer and Seller will execute additional instructions, documents and forms provided by Escrow Holder that are reasonably necessary to close the escrow.

B. A Copy of this Agreement shall be delivered to Escrow Holder within 3 business days after Acceptance (or 1).

Holder to accept and rely on Copies and Signatures as defined in this Agreement as originals, to open escrow and for other purposes of escrow. The validity of this Agreement as between Buyer and Seller is not affected by whether or when Escrow Holder Signs this Agreement.

C. Brokers are a party to the escrow for the sole purpose of compensation pursuant to paragraphs 29, 32A and paragraph D of the section titled Real Estate Brokers on page 8. Buyer and Seller irrevocably assign to Brokers compensation specified in paragraphs 29 and 32A, respectively, and irrevocably instruct Escrow Holder to disburse those funds to Brokers at Close Of Escrow or pursuant to any other mutually executed cancellation agreement. Compensation instructions can be amended or revoked only with the written consent of Brokers. Escrow Holder shall immediately notify Brokers: (i) if Buyer's initial or any additional deposit is not made pursuant to this Agreement, or is not good at time of deposit with Escrow Holder; or (ii) if Buyer and Seller instruct Escrow Holder to cancel escrow.

D. A Copy of any amendment that affects any paragraph of this Agreement for which Escrow Holder is responsible shall be delivered to Escrow Holder within 2 business days after mutual execution of the amendment.

29. BROKER COMPENSATION FROM BUYER: If applicable, upon Close Of Escrow, Buyer agrees to pay compensation to Broker as specified in a separate written agreement between Buyer and Broker.

30. TERMS AND CONDITIONS OF OFFER:

This is an offer to purchase the Property on the above terms and conditions. All paragraphs with spaces for initials by Buyer and Seller are incorporated in this Agreement only if Initialed by all parties. If at least one but not all parties initial, a counter offer is required until agreement is reached. Seller has the right to continue to offer the Property for sale and to accept any other offer at any time prior to notification of Acceptance. Buyer has read and acknowledges receipt of a Copy of the offer and agrees to the above confirmation of agency relationships. If this offer is accepted and Buyer subsequently defaults, Buyer may be responsible for payment of Brokers' compensation. This Agreement and any supplement, addendum or modification, including any Copy, may be Signed in two or more counterparts, all of which shall constitute one and the same writing.

Buyer's Initials [Signature]
Seller's Initials [Signature]

Reviewed by _____ Date _____



Property Address: 11004 Bellagio PlaceDate: 3-5-04

31. EXPIRATION OF OFFER: This offer shall be deemed revoked and the deposit shall be returned unless the offer is Signed by Seller and a Copy of the Signed offer is personally received by Buyer, or by _____ who is authorized to receive it by 5:00 PM on the third calendar day after this offer is signed by Buyer (or, if checked, ☐ by _____ (date), at _____ AM/PM).

Date _____

BUYER [Signature] BUYER _____

(Print name) _____ (Print name) _____

(Address) _____

32. BROKER COMPENSATION FROM SELLER:

A. Upon Close Of Escrow, Seller agrees to pay compensation to Broker as specified in a separate written agreement between Seller and Broker.

B. If escrow does not close, compensation is payable as specified in that separate written agreement.

33. ACCEPTANCE OF OFFER: Seller warrants that Seller is the owner of the Property, or has the authority to execute this Agreement. Seller accepts the above offer, agrees to sell the Property on the above terms and conditions, and agrees to the above confirmation of agency relationships. Seller has read and acknowledges receipt of a Copy of this Agreement, and authorizes Broker to deliver a Signed Copy to Buyer.

☐ (If checked) SUBJECT TO ATTACHED COUNTER OFFER, DATED _____

Date _____

SELLER _____ SELLER _____

(Print name) _____ (Print name) _____

(Address) _____

CONFIRMATION OF ACCEPTANCE: A Copy of Signed Acceptance was personally received by Buyer or Buyer's authorized agent on (date) _____ at _____ AM/PM. A binding Agreement is created when a Copy of Signed Acceptance is personally received by Buyer or Buyer's authorized agent whether or not confirmed in this document. Completion of this confirmation is not legally required in order to create a binding Agreement; it is solely intended to evidence the date that Confirmation of Acceptance has occurred.

REAL ESTATE BROKERS:

A. Real Estate Brokers are not parties to the Agreement between Buyer and Seller.

B. Agency relationships are confirmed as stated in paragraph 27.

C. If specified in paragraph 2A, Agent who submitted the offer for Buyer acknowledges receipt of deposit.

D. COOPERATING BROKER COMPENSATION: Listing Broker agrees to pay Cooperating Broker (Selling Firm) and Cooperating Broker agrees to accept, out of Listing Broker's proceeds in escrow: (i) the amount specified in the MLS, provided Cooperating Broker is a Participant of the MLS in which the Property is offered for sale or a reciprocal MLS; or (ii) ☐ (if checked) the amount specified in a separate written agreement (C.A.R. Form CBC) between Listing Broker and Cooperating Broker.

Real Estate Broker (Selling Firm) Bel-Air Holdings PropertiesBy [Signature] Date 3-5-04Address 672 Avenida Way City CA State CA Zip 90051Telephone (310) 401-8765 Fax (310) 401-0626 E-mail _____

Real Estate Broker (Listing Firm) _____ Date _____

By _____ City _____ State _____ Zip _____

Address _____ E-mail _____

Telephone _____ Fax _____

ESCROW HOLDER ACKNOWLEDGMENT:

Escrow Holder acknowledges receipt of a Copy of this Agreement, (If checked, ☐ a deposit in the amount of \$ _____), counter offer numbers _____ and _____

_____ and agrees to act as Escrow Holder subject to paragraph 28 of this Agreement, any supplemental escrow instructions and the terms of Escrow Holder's general provisions.

Escrow Holder is advised that the date of Confirmation of Acceptance of the Agreement as between Buyer and Seller is _____

Escrow Holder _____ Escrow # _____

By _____ Date _____

Address _____

Phone/Fax/E-mail _____

Escrow Holder is licensed by the California Department of ☐ Corporations, ☐ Insurance, ☐ Real Estate. License # _____

THIS FORM HAS BEEN APPROVED BY THE CALIFORNIA ASSOCIATION OF REALTORS® (C.A.R.). NO REPRESENTATION IS MADE AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION IN ANY SPECIFIC TRANSACTION. A REAL ESTATE BROKER IS THE PERSON QUALIFIED TO ADVISE ON REAL ESTATE TRANSACTIONS. IF YOU DESIRE LEGAL OR TAX ADVICE, CONSULT AN APPROPRIATE PROFESSIONAL. This form is available for use by the entire real estate industry. It is not intended to identify the user as a REALTOR®. REALTOR® is a registered collective membership mark which may be used only by members of the NATIONAL ASSOCIATION OF REALTORS® who subscribe to its Code of Ethics.



Published by the
California Association of REALTORS®





CALIFORNIA
ASSOCIATION
OF REALTORS®

BUYER'S INSPECTION ADVISORY

(C.A.R. Form BIA, Revised 10/02)

Property Address: 11004 BELLAGIO PLACE ("Property").

A. IMPORTANCE OF PROPERTY INVESTIGATION: The physical condition of the land and improvements being purchased is not guaranteed by either Seller or Brokers. For this reason, you should conduct thorough investigations of the Property personally and with professionals who should provide written reports of their investigations. A general physical inspection typically does not cover all aspects of the Property nor items affecting the Property that are not physically located on the Property. If the professionals recommend further investigations, including a recommendation by a pest control operator to inspect inaccessible areas of the Property, you should contact qualified experts to conduct such additional investigations.

B. BUYER RIGHTS AND DUTIES: You have an affirmative duty to exercise reasonable care to protect yourself, including discovery of the legal, practical and technical implications of disclosed facts, and the investigation and verification of information and facts that you know or that are within your diligent attention and observation. The purchase agreement gives you the right to investigate the Property. If you exercise this right, and you should, you must do so in accordance with the terms of that agreement. This is the best way for you to protect yourself. It is extremely important for you to read all written reports provided by professionals and to discuss the results of inspections with the professional who conducted the inspection. You have the right to request that Seller make repairs, corrections or take other action based upon items discovered in your investigations or disclosed by Seller. If Seller is unwilling or unable to satisfy your requests, or you do not want to purchase the Property in its disclosed and discovered condition, you have the right to cancel the agreement if you act within specific time periods. If you do not cancel the agreement in a timely and proper manner, you may be in breach of contract.

C. SELLER RIGHTS AND DUTIES: Seller is required to disclose to you material facts known to him/her that affect the value or desirability of the Property. However, Seller may not be aware of some Property defects or conditions. Seller does not have an obligation to inspect the Property for your benefit nor is Seller obligated to repair, correct or otherwise cure known defects that are disclosed to you or previously unknown defects that are discovered by you or your inspectors during escrow. The purchase agreement obligates Seller to make the Property available to you for investigations.

D. BROKER OBLIGATIONS: Brokers do not have expertise in all areas and therefore cannot advise you on many items, such as soil stability, geologic or environmental conditions; hazardous or illegal controlled substances; structural conditions of the foundation or other improvements, or the condition of the roof, plumbing, heating, air conditioning, electrical, sewer, septic, waste disposal, or other system. The only way to accurately determine the condition of the Property is through an inspection by an appropriate professional selected by you. If Broker gives you referrals to such professionals, Broker does not guarantee their performance. You may select any professional of your choosing. In sales involving residential dwellings with no more than four units, Brokers have a duty to make a diligent visual inspection of the accessible areas of the Property and to disclose the results of that inspection. However, as some Property defects or conditions may not be discoverable from a visual inspection, it is possible Brokers are not aware of them. If you have entered into a written agreement with a Broker, the specific terms of that agreement will determine the nature and extent of that Broker's duty to you. **YOU ARE STRONGLY ADVISED TO INVESTIGATE THE CONDITION AND SUITABILITY OF ALL ASPECTS OF THE PROPERTY. IF YOU DO NOT DO SO, YOU ARE ACTING AGAINST THE ADVICE OF BROKERS.**

E. YOU ARE ADVISED TO CONDUCT INVESTIGATIONS OF THE ENTIRE PROPERTY, INCLUDING, BUT NOT LIMITED TO THE FOLLOWING:

- 1. GENERAL CONDITION OF THE PROPERTY, ITS SYSTEMS AND COMPONENTS:** Foundation, roof, plumbing, heating, air conditioning, electrical, mechanical, security, pool/spa, other structural and non-structural systems and components, fixtures, built-in appliances, any personal property included in the sale, and energy efficiency of the Property. (Structural engineers are best suited to determine possible design or construction defects, and whether improvements are structurally sound.)
- 2. SQUARE FOOTAGE, AGE, BOUNDARIES:** Square footage, room dimensions, lot size, age of improvements and boundaries. Any numerical statements regarding these items are APPROXIMATIONS ONLY and have not been verified by Seller and cannot be verified by Brokers. Fences, hedges, walls, retaining walls and other natural or constructed barriers or markers do not necessarily identify true Property boundaries. (Professionals such as appraisers, architects, surveyors and civil engineers are best suited to determine square footage, dimensions and boundaries of the Property.)
- 3. WOOD DESTROYING PESTS:** Presence of, or conditions likely to lead to the presence of wood destroying pests and organisms and other infestation or infection. Inspection reports covering these items can be separated into two sections: Section 1 identifies areas where infestation or infection is evident. Section 2 identifies areas where there are conditions likely to lead to infestation or infection. A registered structural pest control company is best suited to perform these inspections.

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Buyer's Initials

Seller's Initials

Reviewed by Date



BIA REVISION 10/02 (PAGE 1 OF 2)

F-884 012/013 1-89

EXHIBIT 1

PAGE 17

FROM

14:18

MAR-05-2004

Property Address: 11001 1/2 44th 11001

Date: 3-3-04

4. **SOIL STABILITY:** Existence of fill or compacted soil, expansive or contracting soil, susceptibility to slippage, settling or movement, and the adequacy of drainage. (Geotechnical engineers are best suited to determine such conditions, causes and remedies.)
5. **ROOF:** Present condition, age, leaks, and remaining useful life. (Roofing contractors are best suited to determine these conditions.)
6. **POOL/SPA:** Cracks, leaks or operational problems. (Pool contractors are best suited to determine these conditions.)
7. **WASTE DISPOSAL:** Type, size, adequacy, capacity and condition of sewer and septic systems and components, connection to sewer, and applicable fees.
8. **WATER AND UTILITIES; WELL SYSTEMS AND COMPONENTS:** Water and utility availability, use restrictions and costs. Water quality, adequacy, condition, and performance of well systems and components.
9. **ENVIRONMENTAL HAZARDS:** Potential environmental hazards, including, but not limited to, asbestos, lead-based paint and other lead contamination, radon, methane, other gases, fuel oil or chemical storage tanks, contaminated soil or water, hazardous waste, waste disposal sites, electromagnetic fields, nuclear sources, and other substances, materials, products, or conditions (including mold (airborne, toxic or otherwise), fungus or similar contaminants). (For more information on these items, you may consult an appropriate professional or read the booklets "Environmental Hazards: A Guide for Homeowners, Buyers, Landlords and Tenants," "Protect Your Family From Lead in Your Home" or both.)
10. **EARTHQUAKES AND FLOODING:** Susceptibility of the Property to earthquake/seismic hazards and propensity of the Property to flood. (A Geologist or Geotechnical Engineer is best suited to provide information on these conditions.)
11. **FIRE, HAZARD AND OTHER INSURANCE:** The availability and cost of necessary or desired insurance may vary. The location of the Property in a seismic, flood or fire hazard zone, and other conditions, such as the age of the Property and the claims history of the Property and Buyer, may affect the availability and need for certain types of insurance. Buyer should explore insurance options early as this information may affect other decisions, including the removal of loan and inspection contingencies. (An insurance agent is best suited to provide information on these conditions.)
12. **BUILDING PERMITS, ZONING AND GOVERNMENTAL REQUIREMENTS:** Permits, inspections, certificates, zoning, other governmental limitations, restrictions, and requirements affecting the current or future use of the Property, its development or size. (Such information is available from appropriate governmental agencies and private information providers. Brokers are not qualified to review or interpret any such information.)
13. **RENTAL PROPERTY RESTRICTIONS:** Some cities and counties impose restrictions that limit the amount of rent that can be charged, the maximum number of occupants; and the right of a landlord to terminate a tenancy. Deadbolt or other locks and security systems for doors and windows, including window bars, should be examined to determine whether they satisfy legal requirements. (Government agencies can provide information about these restrictions and other requirements.)
14. **SECURITY AND SAFETY:** State and local Law may require the installation of barriers, access alarms, self-latching mechanisms and/or other measures to decrease the risk to children and other persons of existing swimming pools and hot tubs, as well as various fire safety and other measures concerning other features of the Property. Compliance requirements differ from city to city and county to county. Unless specifically agreed, the Property may not be in compliance with these requirements. (Local government agencies can provide information about these restrictions and other requirements.)
15. **NEIGHBORHOOD, AREA, SUBDIVISION CONDITIONS; PERSONAL FACTORS:** Neighborhood or area conditions, including schools, proximity and adequacy of law enforcement, crime statistics, the proximity of registered felons or offenders, fire protection, other government services, availability, adequacy and cost of any speed-wired, wireless internet connections or other telecommunications or other technology services and installations, proximity to commercial, industrial or agricultural activities, existing and proposed transportation, construction and development that may affect noise, view, or traffic, airport noise, noise or odor from any source, wild and domestic animals, other nuisances, hazards, or circumstances, protected species, wetland properties, botanical diseases, historic or other governmentally protected sites or improvements, cemeteries, facilities and condition of common areas of common interest subdivisions, and possible lack of compliance with any governing documents or Homeowners' Association requirements, conditions and influences of significance to certain cultures and/or religions, and personal needs, requirements and preferences of Buyer.

Buyer and Seller acknowledge and agree that Broker: (i) Does not decide what price Buyer should pay or Seller should accept; (ii) Does not guarantee the condition of the Property; (iii) Does not guarantee the performance, adequacy or completeness of inspections, services, products or repairs provided or made by Seller or others; (iv) Shall not be responsible for identifying defects that are not known to Broker and (a) are not visually observable in reasonably accessible areas of the Property; (b) are in common areas; or (c) are off the site of the Property; (v) Shall not be responsible for inspecting public records or permits concerning the title or use of Property; (vi) Shall not be responsible for identifying the location of boundary lines or other items affecting title; (vii) Shall not be responsible for verifying square footage, representations of others or information contained in investigation reports, Multiple Listing Service, advertisements, flyers or other promotional material; (viii) Shall not be responsible for providing legal or tax advice regarding any aspect of a transaction entered into by Buyer or Seller, and (ix) Shall not be responsible for providing other advice or information that exceeds the knowledge, education and experience required to perform real estate licensed activity. Buyer and Seller agree to seek legal, tax, insurance, title and other desired assistance from appropriate professionals.

By signing below, Buyer and Seller each acknowledge that they have read, understand, accept and have received a Copy of this Advisory. Buyer is encouraged to read it carefully.

Buyer Signature

Date

Buyer Signature

Date

Seller Signature

Date

Seller Signature

Date

THIS FORM HAS BEEN APPROVED BY THE CALIFORNIA ASSOCIATION OF REALTORS® (C.A.R.). NO REPRESENTATION IS MADE AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION IN ANY SPECIFIC TRANSACTION. A REAL ESTATE BROKER IS THE PERSON QUALIFIED TO ADVISE ON REAL ESTATE TRANSACTIONS. IF YOU DESIRE LEGAL OR TAX ADVICE, CONSULT AN APPROPRIATE PROFESSIONAL.

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Published by the
California Association of REALTORS®

Revised by

Date





CALIFORNIA
ASSOCIATION
OF REALTORS®

DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIPS

(As required by the Civil Code)
(C.A.R. Form AD, Revised 10/01)

When you enter into a discussion with a real estate agent regarding a real estate transaction, you should from the outset understand what type of agency relationship or representation you wish to have with the agent in the transaction.

SELLER'S AGENT

A Seller's agent under a listing agreement with the Seller acts as the agent for the Seller only. A Seller's agent or a subagent of that agent has the following affirmative obligations:

To the Seller:

A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Seller.

To the Buyer and the Seller:

(a) Diligent exercise of reasonable skill and care in performance of the agent's duties.

(b) A duty of honest and fair dealing and good faith.

(c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties.

An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

BUYER'S AGENT

A selling agent can, with a Buyer's consent, agree to act as agent for the Buyer only. In these situations, the agent is not the Seller's agent; even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Seller. An agent acting only for a Buyer has the following affirmative obligations:

To the Buyer:

A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Buyer.

To the Buyer and the Seller:

(a) Diligent exercise of reasonable skill and care in performance of the agent's duties.

(b) A duty of honest and fair dealing and good faith.

(c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties.

An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

AGENT REPRESENTING BOTH SELLER AND BUYER

A real estate agent, either acting directly or through one or more associate licensees, can legally be the agent of both the Seller and the Buyer in a transaction, but only with the knowledge and consent of both the Seller and the Buyer.

In a dual agency situation, the agent has the following affirmative obligations to both the Seller and the Buyer:

- (a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either the Seller or the Buyer.
- (b) Other duties to the Seller and the Buyer as stated above in their respective sections.

In representing both Seller and Buyer, the agent may not, without the express permission of the respective party, disclose to the other party that the Seller will accept a price less than the listing price or that the Buyer will pay a price greater than the price offered.

The above duties of the agent in a real estate transaction do not relieve a Seller or Buyer from the responsibility to protect his or her own interests. You should carefully read all agreements to assure that they adequately express your understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

Throughout your real property transaction you may receive more than one disclosure form, depending upon the number of agents assisting in the transaction. The law requires each agent with whom you have more than a casual relationship to present you with this disclosure form. You should read its contents each time it is presented to you, considering the relationship between you and the real estate agent in your specific transaction.

This disclosure form includes the provisions of Sections 2079.13 to 2079.24, inclusive, of the Civil Code set forth on the reverse hereof. Read it carefully.

I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS DISCLOSURE AND CHAPTER 2 OF TITLE 9 OF PART 4 OF DIVISION 3 OF THE CIVIL CODE.

BUYER/SELLER

Date _____ Time _____ AM/PM

BUYER/SELLER

Date _____ Time _____ AM/PM

AGENT

By

Date 3-5-04

(Please Print)

(Associate Licensee or Broker Signature)

THIS FORM SHALL BE PROVIDED AND ACKNOWLEDGED AS FOLLOWS (Civil Code § 2079.14):

- When the listing brokerage company also represents the Buyer, the Listing Agent shall give one AD form to the Seller and one to the Buyer.
- When Buyer and Seller are represented by different brokerage companies, then the Listing Agent shall give one AD form to the Seller and the Buyer's Agent shall give one AD form to the Buyer and one AD form to the Seller.

SEE REVERSE SIDE FOR FURTHER INFORMATION

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EXHIBIT 1

PAGE 19

FROM

14:13

MAR-05-2004

PROOF OF SERVICE

1013A(3) CCP Revised 5/1/88

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the county of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 650 Town Center Drive, Suite 950, Costa Mesa, California, 92626.

On **March 15 2004**, I served the foregoing document described as **NOTICE OF MOTION FOR APPROVAL OF SALE OF ESTATE FREE AND CLEAR OF LIENS PURSUANT TO SECTION 363(f) OF THE BANKRUPTCY CODE; DECLARATION OF STEVEN BIEGENZAHN IN SUPPORT** on the parties listed on the attached service list :

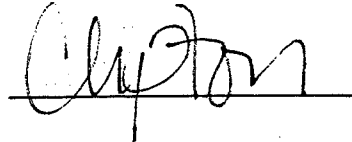
 X by placing true copies thereof enclosed in sealed envelopes addressed on the attached service list:

 X BY MAIL - As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Costa Mesa, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on **March 15, 2004**, at Costa Mesa, California.

 X FEDERAL - I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Cindy Upton



Service List
In re: Maria Antonieta Pimienta
Bk. Case # LA-02-43306 ER

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DEBTOR'S COUNSEL:

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William H. Brownstein and Associates
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Law Office Of Rose E. Mohan
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The Woodlands, TX

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REQUEST FOR SPECIAL NOTICE:

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